

Let's be clear: this particular amendment only passed by a one-vote margin. The conference was sharply divided on this issue, as reflected by the fact that no House Republicans signed the conference report and only two Senate Republicans signed the report.

The problem with this provision is not that it says that interrogators cannot use certain techniques. Most of the techniques prohibited by the field manual are so repugnant that I think we can all agree they should never be used.

In fact, this vote is not about torture, and it is not about waterboarding. We all think that torture is repugnant. And whether one believes that waterboarding is torture is really irrelevant because waterboarding is not in the CIA's interrogation program.

The problem is that the provision in the conference report establishes a very limited set of techniques, and these are the only techniques that any interrogator may use.

So the vote is really about whether the FBI and CIA should be restricted to a set of 19 unclassified techniques, designed for the Army, which have not been examined fully by some agencies.

If this legislation passes and is signed into law, all of us need to understand fully that FBI and CIA interrogators may only use the 19 techniques authorized in the field manual. And all of us need to understand that no one can say for sure that this will not impact our future intelligence collection.

As CIA Director Hayden has said: "I don't know of anyone who has looked at the Army Field Manual who could make the claim that what's contained in there exhausts the universe of lawful interrogation techniques consistent with the Geneva Convention."

If we are going to demand that all Government agencies must use only these techniques, we must make sure that the field manual does not leave out other moral and legal techniques needed by these agencies. And I don't believe that the Intelligence Committee has adequately pursued this issue.

Having a single interrogation standard does not account for the significant differences in why and how intelligence is collected by the military, CIA, and FBI.

Much has been made of the FBI saying that they do not use coercive techniques. That is accurate. The FBI operates in a different world—where confessions are usually admitted into evidence during a prosecution. This means that they have to satisfy standards of voluntariness that do not bind either the military or the CIA.

But significant concerns have been raised about whether the FBI would even be able to conduct ordinary interrogations using only those techniques authorized by the field manual.

A time-honored technique, one that has led to countless successful prosecutions, is deception—for example, telling a suspect that his associate has

confessed even though the associate has refused to cooperate. But, it's unclear where this type of deception is authorized in the field manual. So, under this amendment, the FBI could be barred from using this simple, yet invaluable, technique.

FBI lawyers have told us that they need more time to conduct a full legal review of the field manual and determine along with their counterintelligence and counterterrorism divisions what impact using only the field manual would have on interrogations. We should give them time to do this review before we pass a bill that could severely undermine their interrogation practices.

Aside from these concerns, the Army Field Manual on Interrogation was designed as a training document. It is changeable, which means the Congress—and the CIA and FBI have no idea what techniques may be added—or subtracted—tomorrow, next month, or next year. A moving document is not a sound basis for good legislation.

There are also practical consequences to applying this unclassified military training manual to civilian agencies; as we heard earlier, having one standard that can be publicly judged by the entire world. We are talking about intelligence interrogations. We should not broadcast to the world, to our enemies, exactly what techniques our intelligence professionals may use when seeking information from terrorists.

The wide availability of the field manual on the internet makes it almost certain that al-Qaida is training its operatives to resist the authorized techniques.

Supporters of this provision also argue that the Army Field Manual gives interrogators sufficient flexibility to shape the interrogation. Yet, some of the techniques in the field manual are allowed only if the interrogator obtains permission from "the first O-6 in the interrogator's chain of command." What that means is that an interrogator has to get permission from an Army or Marine Corps colonel or a Navy captain before proceeding. So in order to have any flexibility, will the CIA and FBI have to bring colonels and captains to all of their interrogations? These interrogations will get awfully crowded pretty quickly.

We have been told that the field manual incorporates the Golden rule. Do unto others as you would have them do to unto you is an admirable standard. But when dealing with terrorists who have shown no regard for morality, humanity, and decency, it is somewhat out of place.

Do we really expect that if we restrict ourselves to techniques in the Field Manual that al-Qaida will do the same? While we are arguing about whether waterboarding is torture, they are chopping off heads and using women and children to conduct their suicide bombings. Now, I am not suggesting that we resort to their barbaric

tactics. I am simply saying that we should not base this important decision that will bind all of our intelligence interrogations on the hope that al-Qaida will discover civility.

Let me also clarify a comment from our distinguished committee chairman about the interrogation of Ibn Shaykh al-Libi. It was suggested that al-Libi lied to interrogators because of the CIA's "coercive" techniques. However, al-Libi was not in CIA custody—or foreign custody for that matter—when he made claims about Iraq training al-Qaida members in poisons and gases.

In fact, it was only when al-Libi was interviewed by CIA officers that he recanted his earlier statements.

I believe we still have a lot of work to do before we impose restrictions on CIA and FBI interrogations that could have severe consequences for our intelligence collection.

Now, I want to make clear what my position is here today. For the past several months, I have worked hard to put together a reasonable bill that allows the Intelligence Committees to conduct necessary oversight, while cognizant of the administration's concerns about resources and executive branch prerogatives.

I understand that no administration likes oversight. But oversight is essential to what Congress does: We have an obligation to the taxpayers to make laws and appropriate funds responsibly. And in order to do this, we have to know how the money is being spent and what activities are being conducted.

I have reviewed closely the Statement of Administration Policy on this bill and I am confident that we have addressed or resolved all but one of the concerns listed there. One provision remains that merits a veto and that is the amendment before us: the Army Field Manual interrogation techniques.

At the end of the day, if this provision is removed, I will support this bill. But in its current form, I cannot support it and I urge my colleagues to vote against the conference report.

Mr. President, I thank the distinguished Senator from Virginia, who has played the lead in so many things, such as the Detainee Treatment Act and other major pieces of legislation, for his very thoughtful discussion of these issues.

It has been very troubling to me to hear on the floor today some things about what the CIA does that are absolutely not true. We have heard all kinds of descriptions of techniques that are barred by the Army Field Manual. The techniques barred by the Army Field Manual, the horrors that were outlined, are not tactics the CIA uses. They do not use them. They would probably violate the Geneva Conventions and many other laws, which absolutely do cover interrogations by the CIA. When one raises the spectrum that the CIA may be torturing detainees, No. 1, it is not true; No. 2, for those who know what is going on, it is irresponsible; No. 3, it is the kind of thing